IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1674 OF 2004

IN

SUMMARY SUIT NO.837 OF 2002

A.V. Bhashyam ... Plaintiff

v/s

Union of India and ors. ... Defendants

Ms Nandini Menon for Plaintiff.

Mr S.R. Rajguru for Defendants.

CORAM : D.K.DESHMUKH J.

DATE : 15TH APRIL 2005

P.C.: -

1. This is a notice of motion taken out by the defendants. The plaintiff has filed this suit for recovery of certain amounts from the defendants. Admittedly, the amounts are claimed by the plaintiff on the basis of the agreement between the parties dated 17th August 1987. Admittedly, there is an arbitration clause in the agreement. According to the plaintiff, the plaintiff invoked the arbitration clause but as there was no response from the defendants to appoint Arbitrator, the present suit has been filed. Since this is a notice of motion taken out under section 8 of the Arbitration and Conciliation Act 1996, what is required to be seen is whether there is an arbitration clause between the parties in existence. The fact that there is an arbitration clause in existence between the parties is admitted , the only option that is available to me in terms of the provisions of section 8 is to refer the parties to arbitration. The notice of motion and the suit are therefore disposed off. The Office shall refund court fee to the plaintiff in accordance with the rules. It is clarified that the plaintiff shall be at liberty to take steps to get the Arbitral Tribunal constituted. The leaned counsel appearing for defendants states that the Secretary of the relevant

Department named in the arbitration clause shall appoint Arbitrator in accordance with the agreement within a period of eight weeks from today. In case appointment of Arbitrators is not made within the aforesaid time, the plaintiff shall be at liberty to take steps in accordance with law for getting the Arbitral Arbitral constituted.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.